IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

CRP.No. 744 of 2003(E)

AGAINST THE ORDER DATED 10/02/2003 IN I.A.407/2003 IN OS.314/02 of III ADDL.SUB COURT, KOZHIKODE

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REVN. PETITIONERS/RESPONDENTS 1 TO 4:

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1. MANSOOR ALI M.T. S/O. MUHAMMED MUNSHI CHEMMAD

2. FISAL P.K., CHAKKARAKALU, MAMBA P.O.

3. K.ABDUL SHUKOOR, KONDIKKAL, NARIKKUNI.

4. ABOOBACKER KARAKUNNU S/O. HASSAN, MALAPPURAM

BY ADV. SRI.BIJU ABRAHAM
SRI.B.G.BHASKAR

RESPONDENTS/PETITIONER AND 5TH RESPONDENT

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1. MUJAHID STUDENT'S MOVEMENT (M.S.M) REPRESENTED BY ITS STATE PRESIDENT T.K.ASHRAF, S/O. MOIDU MASTER RESIDING AT NAGARAM AMSOM, DESOM, KOZHIKODE TALUK.

2. HUSSAIN MUDAVOOR, S/O. ABOOBACKER KOYA, VASANTHAM FAROOK COLLEGE, KOZHIKODE.

BY ADV. SRI.S.K.BRAHMANANDAN
SRI.S.B.PREMACHANDRA PRABHU

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP NO.1804 OF 2003 IN C.R.P.NO.744 OF 2003

DISMISSED

3.8.2007 SD/- PIUS C.KURIAKOSE, JUDGE.

PIUS C. KURIAKOSE,J.

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C.R.P.No.744 of 2003

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Dated: 3rd August, 2007

ORDER

Under challenge in this C.R.P. is an order passed by the trial court allowing an application for leave under Order I Rule 8 C.P.C. In fact the application was filed by the plaintiff noticing a contention raised by the defendants that is suit is bad for want of leave under Order I Rule 8. The learned Subordinate Judge relied on the judgments of this court in **Narayanan v. Kurichithanam Educational Society** (AIR 1959 Ker. 379) and also a judgment of the Patna High Court in **Saran Club v. C.T.Lodge** (AIR 1974 Patna 158) to support his decision to allow the application. An earlier Full Bench judgment of this court in **Poulose Athanasius v. Bassaelios Catholicos** (1957 KLT 63) was cited on behalf of the revision petitioners. The court below found that even that decision does not rule in so many words that a petition for leave filed subsequently cannot be allowed. It cannot be said that the impugned order is vitiated by jurisdictional errors. I approve the impugned order. At the same time, I am of the view that the learned Subordinate Judge was a little bit soft in the matter of imposing terms. Accordingly in

modification of the impugned order, the amount of cost is enhanced from Rs.500/- to Rs.1500/-. The enhanced cost will be paid by the concerned respondent within three weeks from today, failing which the I.A. will stand dismissed and the C.R.P. will stand allowed.

The C.R.P. is disposed of as above.

srd **PIUS C.KURIAKOSE, JUDGE**